

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

THE ACT 1 GROUP, INC.,
d/b/a Act-1 Personnel Services,

Plaintiff,

v.

Case No. 13-CV-13397
HON. GEORGE CARAM STEEH

ALTERNATIVE CARE STAFFING,
INC., et al.,

Defendants.

_____ /

ORDER GRANTING PLAINTIFF'S MOTION
FOR ALTERNATIVE SERVICE (DOC. # 10)

This is a contract case that was removed to federal court on the basis of diversity of citizenship. The court previously denied plaintiff's motion to remand the matter to state court, brought on the basis that diversity between the parties did not exist. The court, finding that although it appeared that Michigan defendant Alternative Care Staffing, Inc. ("ACS") had likely wound up its business, some question concerning this fact remained. Accordingly, the court denied the motion without prejudice, and granted plaintiff's request for an extension of 120 days to serve ACS with process. Now before the court is plaintiff's motion for alternative service.¹

¹The court finds that oral argument would not assist it in its determination of the motion and orders that the motion is submitted on the briefs, in accordance with E.D. LR 7.1(f)(2).

While defendant states that the current request is merely a “thinly disguised attempt to resurrect [plaintiff’s] motion for remand,” and speculates that if the court allows plaintiff’s motion for alternative service, plaintiff will renew its remand request, plaintiff’s arguments convince the court to grant the motion. First, plaintiff asserts in its motion that there is reason to believe Mr. Magoti, the listed resident agent for ACS, is evading service, giving factual information consistent with this assertion. Plaintiff also asserts that defendant ACS should not be dismissed until plaintiff has had the opportunity to depose Mr. Magoti as to whether ACS has wound up its affairs and whether ACS provided notice of the claim underlying this litigation to insurance company Evanston in a timely manner.

The court is satisfied that plaintiff’s request is appropriate and hereby **GRANTS** the motion. Plaintiff is hereby permitted to serve Mr. Magoti by posting at *and* delivering the summons and complaint by first class mail to the address on Dearborn Street in Chicago, identified in plaintiff’s motion, within 30 days of this order.

IT IS SO ORDERED.

Dated: April 2, 2014

s/George Caram Steeh
 GEORGE CARAM STEEH
 UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on April 2, 2014, by electronic and/or ordinary mail.

s/Marcia Beauchemin
 Deputy Clerk